Appendix

APPENDIX A

SUPREME COURT OF NEW JERSEY

A-98 September Term 1981

MARY K. SMITH, HELEN FOLEY,
and JOSEPH F. SHANAHAN,
Appellants,

v.

P. PAUL RICCI, President
State Board of Education
and FRED G. BURKE
Commissioner of Education,
Respondents.

Argued February 8, 1982

Decided May 25, 1982

On certification to the State Board of Education

Joseph F. Shanahan argued the cause for appellants

Mary Ann Burgess, Assistant Attorney General,
argued the cause for respondents (Irwin I. Kimmelman,
Attorney General of New Jersey, attorney.)

The opinion of the Court was delivered by CLIFFORD, J.

Appellants challenge a regulation of the State Board of Education (Board) that requires each local school district to develop and implement a family life education program in the public elementary and secondary curricula. *N.J.A.C.* 6:29-7.1. Appellants contend that such a program impinges upon the free exercise of their religion and constitutes an establishment of religion in violation of the United States Constitution. *U.S. Const.* amend I. They also allege that the process of adopting the regulation did not comply with the requirements of the Administrative Procedure Act, *N.J.S.A.* 52:14B-1 to -15.

APPENDIX A

The Board adopted the regulation on August 6, 1980. Appellants then sought review in the Appellate Division, R.2:2-3 (a) (2). Before argument was heard in the Appellate Division we certified the matter directly. 88 N.J. 471 (1981)

I

In January 1979 the Board appointed a committee, called the Family Life Committee, to make recommendations concerning the teaching of family life and human sexuality in the public schools. Prior to that time the Board's policy toward sex education was embodied in a resolution that had been adopted in 1967. That policy recommended but did not require that local school boards develop programs for sex education. A survey by the Department of Education conducted at the Family Life Committee's request, determined that under the "recommended-but-not-required policy, only 40 per cent of the state's public school pupils were receiving sex education. See *Report of the Family Life Committee of the New Jersey State Board of Education*, August 1979 (hereinafter Report). In the Report, the Family Life Committee pointed out several sociological factors and statistics that it believed reinforced the need for sex education. Although the source of these statistics is not given, there is nothing to indicate that they are unreliable nor do appellants dispute them. The Report sets forth the following:

> in the United States one in five births is to a teenager between 15 and 19;
>
> in 1977 one million babies were born to girls between the ages of 10 and 18;
>
> in New Jersey in 1977, twelve thousand babies were born to girls between 15 and 19;
>
> of the teenagers who do become pregnant when in school, about 80% drop out and do not return to complete their education;

APPENDIX A

research studies continue to show that babies born to adolescent mothers are more apt to be premature and underweight;

babies of low birth weight often suffer from a lag in development through their early years which affects their ability to learn in school;

the incidence of venereal disease in both males and females continues to rise.

The Committee also cited the results of a 1978 Gallup poll indicating that 77 per cent of the public and 95 per cent of the students favored sex education in the schools. However, the Committee pointed out that no research studies had been found that showed a correlation between teaching about human sexuality and a reduction in teenage pregnancy or venereal disease.

The Committee then made the following recommendations:

that the study of family life education as part of the sequential comprehensive kindergarten through twelfth grade curriculum be required;

that the State Board's regulation provide for an excusal policy from sections of the curriculum dealing directly with sex education on parental grounds of conscience;

that the districts provide appropriate services to assist teenagers and teenage parents;

that the Department of Education be directed to prepare for consideration of the board, administrative code regulations to implement the above recommendations.

(Report, supra at 8-10.)

APPENDIX A

Thereafter, the Commissioner of Education submitted a proposed regulation to the Board, which considered it at its February 6, 1980 meeting. At this meeting members of the public offered comments, both for and against the proposed regulations. The Board then approved the publication of the proposed regulation. The regulation, along with an invitation for comment, was published in the March 1980 New Jersey Register, 12 N.J.R. 105 (1980).

At its April 8, 1980 meeting the Board again heard extensive public comment on the proposed regulation. Although a variety of objections were raised, the common theme of those opposed to the family life education program was the fear that it would destroy the prerogative of parents to educate their children on matters involving sexual morality, and would inculcate in pupils concepts and attitudes, especially as related to sexuality, that conflict with their parents' views. Those in favor of the program stressed the need for young people to receive information about family life and sexuality, and saw the program as supplementing rather than replacing parental and religious efforts in this area. At the conclusion of this meeting the Board adopted the regulation by a vote of nine to one.

Less than a month later the New Jersey Senate passed a resolution directing the Board to reconsider the Family Life Education regulation. See Senate Resolution No. 24 (May 1, 1980). In response, The Board reviewed the regulation and made some changes at its meeting on June 11, 1980. The revised regulation was published in the July New Jersey Register, *12 N.J.R.* 388 (1980), and was adopted at the August 6, 1980 meeting.

The regulation required each local district to institute, by September 1981, a policy that would begin the development of a family life education program. The local programs were to be developed through consultation with and participation of teachers, administrators, parents, pupils in grades nine through twelve, physicians, members of the clergy, and other community members. *N.J.A.C.* 6:29-7.1 (b). Each year the district must give parents an outline of the curriculum and a list of instructional material, and must permit parents to review all the materials

APPENDIX A

prior to their use in the classroom. The regulation also listed the teaching staff members authorized to teach in the program and provided for in-service preparation for those teachers. It also permitted districts to use "resource people", such as physicians, clergymen, attorneys, and psychologists, to assist with the program's development, and required the Department of Education to give technical assistance to local districts in developing their programs.

The regulation devotes one paragraph to defining "family life education programs." It says:

> (a) as used in this subchapter, "family life education program" means instruction to develop an understanding of the physical, mental, emotional, social, economic, and psychological aspects of interpersonal relationships; the physiological, and cultural foundations of human development, sexuality, and reproduction, at various stages of growth; the opportunity for pupils to acquire knowledge which will support the development of responsible personal behavior, strengthen their own family life now, and aid in establishing strong family life for themselves in the future thereby contributing to the enrichment of the community.
>
> [*N.J.A.C.* 6:29.7.1 (a)]

As part of its technical assistance to districts, the Department of Education has provided the districts with curriculum guidelines that clarify the above definition. These guidelines indicate that although the emphasis of the program is on teaching about human sexuality, that is not its only focus. Other areas of study include such topics as "Family Structure," "Growing Up Emotionally," and "Dating." Although a wide range of physical, psychological, and social phenomena are suggested as appropriate areas of study, the final decision as to what specific topics are appropriate for each district is left to that district. However, local districts must provide a program that satisfies the definition of family life education as given in the regulation.

APPENDIX A

Finally, the regulation includes an "Excusal clause," which states:

> (i) The local board of education shall establish procedures whereby any pupil, whose parent or guardian presents to the school principal a signed statement that any part of the instruction in family life education is in conflict with his/her conscience, or sincerely held moral or religious beliefs, shall be excused from that portion of the course where such instruction is being given and no penalties as to credit or graduation shall result therefrom.
>
> (*N.J.S.A.* 18A:35-4-6 *et seq.*)
> (*N.J.A.C.* 6:29.7.1 (i)[1])

Under the excusal policy a pupil will receive instruction in all aspects of the family life education program unless a parent or guardian objects. In such a case, the pupil will be excused, but only from those parts of the program that the parent finds morally, conscientiously, or religiously objectionable.

II

Appellants' principal objection to the regulation is that it violates both the Free Exercise and Establishment clauses of the First Amendment.

Free Exercise Clause

Appellants assert that by teaching about reproduction, sexuality, and the development of personal and social values, the schools will "inhibit the moral concepts held by those students who have received them through their Judeo-Christian and other home teaching." As a result, children will be exposed to attitudes, goals, and values that are contrary to their own and to those of their parents, and will thereby be inhibited in the practice of their religion. We do not question that this argument is sincerely made. Whether or not it is well reasoned we need not now decide, for we believe that the simple fact that parents can remove their children from any objectionable part of the program is dispositive. If the program violates a person's beliefs,

---

[1] Even if this paragraph were not included in the regulation, such an excusal policy would be required by statute, *N.J.S.A.* 18A:35-4.7, the wording of which is nearly identical to that used in the regulation.

that person is not required to participate. Where there is no compulsion to participate in this program, there can be no infringement upon appellants' rights freely to exercise their relgion. See *Madeiros v. Kiyosaki*, 52 Haw. 436, 478 P.2d 3124 (1970); *Citizens for Parental Rights v. San Mateo County Bd. of Ed.*, 51 *Cal. App. 3d 1, 124 Cal Rptr.* 68 (Ct. App. 1975), appeal dismissed, 425 *U.S.* 908, 46 *L.Ed.* 2d 759 (1976); *Hopkins v. Hamden Board of Education*, 289 *A.2d* 914 (Conn. Ct. Com. Pls. 1970), appeal dismissed, 305 *A2d* 536 (1973).

Even though the program permits excusal, appellants argue that it nonetheless inhibits the free exercise of their religion. They assert that requiring pupils affirmatively to assert their objection to the program in front of teachers and peers exerts an intolerable pressure on those pupils such that they may be compelled to abandon their beliefs and to choose not to exercise their option to be excused. Relying on *School District of Abington Township v. Schempp*, 374 U.S. 203, 10 *L.Ed.* 2d 844 (1963), they argue that such pressure is constitutionally unacceptable.

We do not doubt that the exercise of the right to be excluded may be difficult for some. The constitution does not guarantee, however, that the exercise of religion will be without difficulty. The Supreme Court repeatedly has upheld neutral laws of general applicability even though such laws have somehow burdened the exercise of some religions. See, e.g., *United States v. Lee*, U.S. , 71 *L.Ed.* 2d 127 (1982) (social security taxes); *Gillette v. United States*, 401 *U.S.* 437, 28 *L.Ed.* 2d 168 (1971) (selective service laws); *Braunfeld v. Brown*, 366 U.S. 599, 6 *L.Ed.* 2d 563 (1961) (Sunday closing laws); *Prince v. Massachusetts*, 321 U.S. 158, 88 *L.Ed.* 645 (1943) (child labor laws); *Reynolds v. United States*, 98 U.S. 145, 25 *L.Ed.* 244 (1879) (polygamy laws).

Appellants' reliance upon Schempp is misplaced. What the Court said in *Schempp* was that an excusal policy would not save the challenged program (Bible reading in school) from a claim of unconstitutionality under the Establishment Clause, 344 *U.S.* at 224-25, 10 *L.Ed.* 2d at 859. That holding lends no support to appellants' contentions that a family life education program that

allows for conscientious excusal will coerce or cajole pupils into abandoning the exercise of their religion.

Courts in at least two states have addressed the validity of sex education curricula in light of free exercise considerations. In both instances the courts held that where there was adequate provision for excusal on the grounds of conscientiously-held belief, sex education or family life education programs did not offend the Free Exercise Clause. The Supreme Court of Hawaii specifically rejected a *Schempp*-based coercion argument in *Madeiros v. Kiyosaki*, supra, 52 *Haw.* at , 478 *P.2d* at 318, holding that where excusal was permitted, no government compulsion inhibiting religion existed. The California Court of Appeals has also rejected appellants' argument that coercion exists despite an excusal policy. *Citizens for Parental Rights v. San Mateo County Bd. of Ed.*, supra, 151 *Cal. App.* 3d at 17-18, 124 *Cal. Rptr.* at 81-82.

Indeed, both the Hawaii and California courts pointed out that accepting the argument that public schools may not offer curricula that offend the religious or moral views of a particular group would be tantamount to enshrining that group's views as state policy, thereby violating the Establishment Clause. *Madeiros v. Kiyosaki, supra,* 52 *Haw.* at , 478 *P.2d* at 318-19; *Citizens for Parental Rights v. San Mateo County Bd. of Ed., supra,* 51 *Cal. App.* 3d at 18, 124 *Cal Rptr.* at 82. In *Epperson v. Arkansas*, 393 U.S. 97, 21 *L.Ed.* 2d 228 (1968) the Supreme Court said, "There is and can be no doubt that the First Amendment does not permit the State to require that teaching and learning must be tailored to the principles or prohibitions of any religious sect or dogma." *Id.* at 106, 21 *L.Ed.* 2d at 235. The Court in *Epperson* held that the prohibition of teaching one point of view (evolution) because it was contrary to the religious views of some constituted an impermissible establishment of religion. Appellants' argument is essentially the same as the one rejected in *Epperson.*

Thus, appellants' argument based on the Free Exercise Clause is flawed in two ways. First, the regulation, because of the excusal clause, does not inhibit the free exercise of religion.

APPENDIX A

Second, to permit the appellants to control what others may study because the subject may be offensive to appellants' religious or moral scruples would violate the Establishment Clause.

Establishment Clause

Appellants contend that the regulation violates the Establishment Clause in that the family life education program will establish secularism (or "Secular Humanism") as a religion and inhibit all traditional religions to the point of establishing secularism as a religion. Appellants' argument focuses on a single part of the *Lemon* tripartite test (*Lemon v. Kurtzman*, 403 *U.S.* 602, 29 *L.Ed.* 2d 745 (1971) that the Supreme Court has articulated for identifying the boundaries between church and state. In order to withstand constitutional scrutiny the challenged regulation must have a secular purpose, its primary effect must neither advance nor inhibit religion, and it must not create excessive government entanglement with religion. *Stone v. Graham* 449 *U.S.* 39, 66 *L.Ed.2d* 199 (1980); *Lemon v. Kurtzman*, supra, 403 *U.S.* at 612-13, 29 *L.Ed.* 2d at 755; See *Marsa v. Wernick*, 86 N.J. 232, 241 (1981).

Appellants do not contend that the regulation is nonsecular; their argument assumes its secularity. Nor do they present a valid argument that the regulation fosters excessive government entanglement with religion.[2] The gravamen of their Establishment Clause argument is that the regulation, because it is secular, will in its primary effect inhibit religion.

This argument is unpersuasive. There is absolutely nothing in the regulation or in the curriculum guidelines that gives even the slightest indication that the program favors a "secular" view of its subject matter over a "religious" one. The program is, as it must be, neither antagonistic toward religion nor supportive of

---

[2] Appellants only "excessive entanglement" argument — that because the regulation permits consultation with members of the clergy in developing the program it fosters excess-entanglement — is clearly without merit.

Indeed, although we need not decide the issue here, it appears that if members of the community in general are being consulted, members of the clergy could not be excluded without violating their right of free exercise of religion. See *McDaniel v. Paty*, 435 *U.S.* 618, 55 *L.Ed.* 2d 593 (1978) (holding unconstitutional a Tennessee statute that prohibited members of the clergy from serving in the legislature).

non-religion. The mention of religion in the classroom is not forbidden. Indeed, it might be entirely appropriate in the context of discussing sexuality for a teacher to mention that different religions have different views as to the morality of certain aspects of sexual behavior and to encourage aspects of sexual behavior and to encourage the students to seek guidance from their parents and clergymen. As one writer has stated,

> As long as the state does not unfairly represent any moral views that might undercut the teaching of a child's religion, sex is as unobjectionable a classroom subject as lyric passages from the Bible. Further, such a course need not be "dehumanizing," or constitute a "religion of secularism". Competing moral interpretations of sex may still be discussed, provided that one particlar interpretation is not stressed to the exclusion of others.
>
> (Comment, *Sex Education: The Constitutional Limits of State Compulsion*, 48 *S. Cal.L.Rev.* 548, 563 (1970) (footnotes omitted).)

The regulation is barren of any requirement that a point of view, be it secular or religious, must be stressed to the exclusion of others. We therefore hold that this program does not contravene any of the three requirements of the *Lemon* test and does not constitute an establishment of religion.

III

Appellants argue that the Board's action in adopting *N.J.A.C.* 6:29-7.1 violates the Due Process Clause of the Fourteenth Amendment because the Board did not show a reasonable relationship between the goals of the family life education program and the means adopted.

The Board, on the other hand, maintains that the Family Life Committee Report, as well as the testimony of knowledgeable people such as the Commissioner of the Department of Health and the Commissioner of Human Services, supports the view that not only is there a relationship between the program and the reduction of teenage pregnancy, venereal disease, and other

social problems, but also the program is necessary if these problems are to be ameliorated.

It is well established that a presumption of reasonableness attaches to the actions of an administrative agency and that the burden of proving unreasonableness falls upon those who challenge the validity of the action. *In re Public Hearings on the Amended Determination of the Commuter Operating Agency for Fiscal Year 1975-76*, 142 *N.J. Super.* 136, 156 (App. Div.), certif. den., 72 *N.J.* 457 (1976). Appellants have offered no evidence to meet that burden but instead merely assert that there are no data that prove that the program will have any effect on the societal ills that it attacks. This bare assertion does not satisfy appellants' burden of proving that the regulation is unreasonable.

In addition, the record reveals a sufficient factual basis for the Board's conclusion that the family life educatin program is a reasonable, desirable, and necessary method of dealing with readily identifiable educational and social problems. If the Board were required to prove the efficacy of each curricular program before implementing it, the Board's ability to operate would be severely and unnecessarily encumbered. No such proof is required.

IV

Appellants have argued that the process followed by the Board in adopting the regulation was procedurally unsound. After a careful study of the record we conclude that those procedures were in accord with both the letter and the spirit of the Administrative Procedure Act, *N.J.S.A.* 52:14B-1 to -15. We find no procedural irregularity.

We have also carefully considered appellants' argument that the Legislature's grant of rulemaking power to the Board was illegal because it lacked adequate standards. We find that argument to be without merit.

The action of the State Board of Education is:

Affirmed.

Chief Justice Wilentz and Justices Pashman, Schreiber, Handler, Pollock and O'Hern join in this opinion.

APPENDIX B

SUBCHAPTER 7. FAMILY LIFE EDUCATION PROGRAM

Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 18A:4-15, 18A:33-1, 18A:35-5, 18A:35-6 and 18A:35-7 and were filed and became effective on April 17, 1980, or as otherwise stated in these rules as R. 1980 d.164. Sec. 12 N.J.R. 105 (b), 12 N.J.R. 251 (b). Amendments were filed and became effective on August 7, 1980 as R. 1980 d. 353. See: N.J.R. 388 (c), 12 N.J.R. 505 (c).

Executive Order 66 (1978) Expiration Date
This subchapter shall expire on
April 1, 1985.

6:29-7.1 Family life education

(a) As used in this subchapter, "family life education program" means instruction to develop an understanding of the physical, mental, emotional, social, economic, and psychological aspects of interpersonal relationships; the physiological, psychological and cultural foundations of human development, sexuality, and reproduction, at various stages or growth; the opportunity for pupils to acquire knowledge which will support the development of responsible personal behavior, strengthen their own family life now, and aid in establishing strong family life for themselves in the future thereby contributing to the enrichment of the community.

(b) The family life education curriculum shall be developed through appropriate consultation and participation of teachers, school administrators, parents and guardians, pupils in grades 9 through 12, community members, physicians, members of the clergy and representative members of the community. The local school district shall demonstrate prior to the initiation of any

local school district program that the above consultation and participation have taken place. The process of consultation shall be continued as the program is revised in future years.

1. The parents and guardians of pupils enrolled in the district shall receive annually an outline of the curriculum and a list of instructional materials for the grade of their child including notification about how to receive a copy of the curriculum. The district shall make available for review in each school the complete curriculum and all instructional materials prior to use in the classroom. Upon the request of parents and guardians, the material shall be made available for their review.

(c) The district's family life education program shall be implemented comprehensively through the coordinate sequential elementary curriculum with instructional units appropriate to the age, growth and development, and maturity of the pupils.

(d) Districts that develop their program with an interdisciplinary approach may use teachers from other disciplines to assist those staff members authorized to give instruction in family life education.

(e) Teaching staff members holding one of the following certificates are authorized to teach in the district's family life education program.

1. Biology;
2. Comprehensive science;
3. Elementary;
4. Health education;
5. Health and physical education;
6. Home economics;
7. Nursery;
8. School Nurse;
9. Teacher of psychology.

(f) Districts may use resource people to assist with their program; that is, physicians, members of the clergy, attorneys, parents and guardians, school social workers, school

psychologists, law enforcement personnel, and others as necessary.

(g) The local school district shall provide for in-service education to those teachers responsible for family life education programs.

(h) The State Department of Education shall provide technical assistance to local school districts in the development of family life education programs.

(i) The local board of education shall establish procedures whereby any pupil, whose parent or guardian presents to the school principal a signed statement that any part of the instruction in family life education is in conflict with his/her conscience, or sincerely held moral or religious beliefs, shall be excused from that portion of the course where such instruction is being given and no penalties as to credit or gradutaion shall result therefrom, (N.J.S.A. 18A:35-4.6 et seq.).

(j) Each district board of education shall adopt a policy by September, 1981, for the development of a family life education program in the local district. The implementation of the family life education program shall be completed by September, 1983.

(k) This subchapter is subject to all of the provisions of N.J.A.C. 6:8-4.2.

APPENDIX C

ARTICLE 3. COMPULSORY EDUCATION

A. ATTENDANCE REQUIRED

18A:38-25. Attendance required of children between six and 16; exceptions

Every parent, guardian or other person having custody and control of a child between the ages of six and 16 years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instructions elsewhere than at school.

APPENDIX D

18A:38-31. Violations of article by parents or guardians; penalties

A parent, guardian or other person having charge and control of a child between the ages of six and 16 years, who shall fail to comply with any of the provisions of this article relating to his duties, shall be deemed to be a disorderly and shall be subject to a fine of not more than $25.00 for a first offense and not more than $100 for each subsequent offense, in the discretion of the court.

In any such proceeding, the summons issuing therein, or in special circumstances a warrant, shall be directed to the alleged disorderly person and the child.

APPENDIX E

REPORT OF THE FAMILY LIFE COMMITTEE OF THE NEW JERSEY STATE BOARD OF EDUCATION

August 1979

Chairperson: Susan M. Wilson

Members: S. David Brandt
William Colon
Sonia B. Ruby
Timonthy Weeks
Robert J. Wolfenbarger
Andrew Fastow, Student Representative

APPENDIX E

NEW JERSEY
STATE BOARD OF EDUCATION
MONTHLY MEETING

February 6, 1980

New Jersey State Library
West State Street
Trenton, New Jersey
10:00 a.m.

Presiding:	P. Paul Ricci, President
Secretary:	Fred G. Burke, Commissioner
Present:	Jack Bagan S. David Brandt Anne S. Dillman Ruth H. Mancuso E. Constance Montgomery Katherine Neuberger Sonia B. Ruby Timonthy Weeks Susan N. Wilson Robert J. Wolfenbarger
Absent:	William Colon T. Edward Hollander Jack Slater
In Attendance:	Catherine Havrilesky Assistant Commissioner James Leck, President Student Guest Ben Geschwind, Student Harry Luna, Student

Recommendations—(Taken from Pages 7, 8 and 9 of the report)

APPENDIX E

The Committee believes the State Board of Education should revise and expand its policy on teaching sex education courses in public schools.

Because so many children are deprived of the opportunity to receive instruction in sex education and because of increasing rates in teenage sexual activity, teenage pregnancy and venereal disease, the committee makes the following four recommendations:

***that the study of family life education as part of the sequential comprehensive k-12 health education curriculum be required.*

Rationale: The committee has selected family life education rather than sex education because it believes that children need to know more than technical information about their developing bodies and reproductive systems. Changing the name of the subject does not weaken the committee's conviction that students need to receive this technical information about human sexuality. However, the information must be appropriate to the age, growth, and development of the students. However, through family life education the committee also hopes to ensure opportunities for students to understand the responsibilities and consequences of becoming a parent, to discuss the advantages and disadvantages of becoming sexually active at an early age and to see the consequences and problems of contracting a venereal disease. The committee believes that family life education is a better, more comprehensive rubric under which to study how to weigh options, clarify decisions and develop personal and social values than is the narrower label of sex education.

Values in this context means the universal values that underly all religions and cultures and that protect and nurture civilized interpersonal relationships. These values include respect, honesty and compassion for self, and others.

***that the state regulations provide for an excusal policy from sections of the curriculum dealing directly with sex education based on parental grounds of conscience.*

APPENDIX E

Rationale: Twelve thousand teenagers became pregnant last year in New Jersey. Medically, this is a high risk group. Low birth weights for this group far exceed the average for older mothers. Children born below 2,500 grams run increased risks in terms of physical and mental development. Teenage pregnancy remains the major cause of female dropouts nationally. While state law does not permit the exclusion of pregnant teenagers from the regular school program, for many of these students the regular program is inadequate.

Under New Jersey law, pregnant teenagers are considered handicapped and are eligible for special programs. However, few districts in the state provide either special education or support services for these students. Evidence indicates that special programs can reduce dropout rates, increase the health of mother and child and be implemented with little or no additional local expense.

***that the Department of Education be directed to prepare for consideration of the board, administrative code to implement the above recommendations.*

APPENDIX F

(taken from page 108 of the Transcript)

ask that you not read that same prepared statement. We can read. We have all passed our basic skills requirement and it's kind or boring to have to listen to a written statement that you have presented us with. We would ask that you summarize your statement instead of reading a prepared written statement that you are giving us.

In addition, when we begin, we, as I said, we have 35 speakers, and we will call you in the order your names came in, and we will, the time limit will be three minutes. We hope you adhere to that in order to allow everyone an opportunity to speak and share their views with us.

COMMISSIONER BURKE: You have before you a proposal for Administrative Code that requires family life programs in all school districts.

In January of last year the Board formed its committee on this issue. In August the committee released its report. *These rules are based on the recommendations of the committee.*

APPENDIX G

IN THE SUPREME COURT OF THE STATE OF NEW JERSEY

A-98 September Term 1981

MARY K. SMITH, JACQUELINE DONOHOE, HELEN FOLEY, PHYLLIS GIGLIO and JOSEPH F. SHANAHAN,
Appellants,

v.

P. PAUL RICCI, President State Board of Education and FRED G. BURKE Commissioner of Education,
Respondents.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that Mary K. Smith, Jacqueline Donohoe, Helen Foley, Phyllis Giglio and Joseph F. Shanahan, appellants above named, hereby appeal to the Supreme Court of the United States from the final decision of the Supreme Court of the State of New Jersey, entered in this action on May 25, 1982.

This appeal is taken pursuant to 28 U.S.C.S. 1257 (2).

Joseph F. Shanahan
Counsel for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of July, 1982, three copies of this Notice of Appeal were delivered to the office of Irwin I. Kimmelman, Attorney General of the State of New Jersey, Richard J. Hughes Justice Complex Trenton, N.J. 08625.

Joseph F. Shanahan

APPENDIX H

JOSEPH F. SHANAHAN
RD 2 Box 105
Lambertville, New Jersey 08530
609-397-3158 — 201-788-1921
Attorney for Appellants

MARY K. SMITH, JACQUELINE DONOHOE,
HELEN FOLEY, PHYLLIS GIGLIO
and JOSEPH F. SHANAHAN,
Appellants,

v.

P. PAUL RICCI, President
State Board of Education
and FRED G. BURKE
Commissioner of Education,
Respondents.

SUPREME COURT OF NEW JERSEY
A-98 September Term 1982

Civil Action
CONSENT ORDER

This matter being opened by Joseph F. Shanahan, attorney for appellants and with the consent of the Attorney General of New Jersey, attorney for respondents being affixed hereto, appellants seeking to allow the withdrawal of Jacqueline Donohoe and Phyllis Giglio and the Attorney General having no objection;

It is on this day of August 1982

APPENDIX H

ORDERED that Jacqueline Donohoe and Phyllis Giglio are eliminated as parties to the cause and all pleadings should be amended to so reflect.

Justice of Supreme Court

Consent is hereby given to above order.

Irwin I. Kimmelman
Attorney General of New Jersey

(s) Mary Ann Burgess
by Mary Ann Burgess,
Deputy Attorney General

Date: 9 August, 1982

CERTIFICATE OF SERVICE

I hereby certify that on this 20 day of August 1982 three copies of the Jurisdictional Statement were delivered to the office of Mary Ann Burgess, Deputy Attorney General of New Jersey, Richard J. Hughes Justice Complex Trenton, New Jersey 08625.

Joseph F. Shanahan, Esquire
Attorney for Appellants
R.D. 2 Box 105
Lambertville, N.J. 08530